

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JEFFERY WATSON,

Plaintiff,

v.

CITY OF VANCOUVER, et al.,

Defendants.

CASE NO. C13-5936 RBL

ORDER DENYING MOTION TO
EXCLUDE EXPERT THOMAS
BENGE

THIS MATTER is before the Court on Plaintiff Jeffrey Watson's Motion to Exclude Defendant's expert Thomas Benge. [Dkt. # 100]. Watson argues that Benge's testimony should be excluded because it relies on Benge's own determinations of credibility, improperly draws legal conclusions, and undertakes to tell the jury what result to reach. The City argues that Benge's opinions are reliable and thus admissible given his extensive knowledge and experience, and that challenges to Benge's report go to weight of his testimony, not its admissibility.

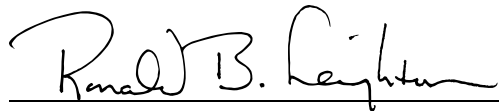
The Motion to Exclude Benge is DENIED. Some of his opinions are moot in light of the Court's recent resolution of the City's motion for summary judgment, [Dkt. # 119], but Benge may testify about police practices and standards, the use of force continuum, and officer training, and may answer hypotheticals.

1 He may not, however, testify as to the ultimate issue: the reasonableness of the officers'
2 use of force against Watson. *See Hangarter v. Provident Life & Acc. Ins. Co.*, 373 F.3d 998,
3 1016 (9th Cir. 2004) (“an expert witness cannot give an opinion as to her *legal conclusion*, i.e.,
4 an opinion on an ultimate issue of law.” (quoting *Mukhtar v. Cal. State Univ., Hayward*, 299
5 F.3d 1053, 1066 n. 10 (9th Cir. 2002) (emphasis in original))).

6 Watson’s Motion to Exclude Expert Thomas Bengé is DENIED.

7 IT IS SO ORDERED.

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9 Dated this 16th day of March, 2015.

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12 RONALD B. LEIGHTON
13 UNITED STATES DISTRICT JUDGE
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